

# Senate Study Bill 3032 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON SODDERS)

## A BILL FOR

1 An Act relating to attorney fees and court costs in an action  
2 to quiet title after a request for a quitclaim deed.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 649.5, Code 2016, is amended to read as  
2 follows:

3 **649.5 Demand for quitclaim — attorney fees.**

4 1. If a party, twenty days or more before Before bringing  
5 suit to quiet a title to real estate, requests of a party  
6 may make a written request to the person holding an apparent  
7 adverse interest or right therein the execution of a in the  
8 property asking that such person, and that person's spouse  
9 if any, execute, have acknowledged, and deliver a quitclaim  
10 deed thereto, and also tenders to the person one dollar and  
11 twenty-five cents to the property to such requesting party.

12 2. The written request described in subsection 1 shall  
13 include a draft quitclaim deed to the property, a copy of this  
14 section, a self-addressed stamped envelope, and fifty dollars  
15 to cover the expense of the execution, acknowledgment, and  
16 delivery of the deed, and if.

17 3. If the person refuses or neglects holding an apparent  
18 adverse interest or right in the property fails to comply  
19 within twenty days of receiving the written request, the filing  
20 of a disclaimer of interest or right shall not avoid the costs  
21 in an action afterwards brought, and the court may, in its  
22 discretion, if the plaintiff succeeds, assess, in addition  
23 to the ordinary costs of court, an a reasonable attorney  
24 fee for plaintiff's the requesting party's attorney, not  
25 exceeding twenty-five dollars if there is but a single tract  
26 not exceeding forty acres in extent, or a single lot in a city,  
27 involved, and forty dollars, if but a single tract exceeding  
28 forty acres and not more than eighty acres. In cases in which  
29 two or more tracts are included that may not be embraced in one  
30 description, or single tracts covering more than eighty acres,  
31 or two or more city lots, a reasonable fee may be assessed, not  
32 exceeding, proportionately, those provided for in this section.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with  
35 the explanation's substance by the members of the general assembly.

1     This bill makes changes to Code section 649.5, relating  
2 to attorney fees and court costs for a party who succeeds in  
3 an action to quiet title and who requested a quitclaim deed  
4 from the party holding an apparent adverse interest prior to  
5 bringing the action to quiet title.

6     Under current law, if the defendant in an action to quiet  
7 title appears before the court and disclaims all right and  
8 title adverse to the plaintiff, the defendant recovers the  
9 defendant's costs. However, if 20 days prior to bringing  
10 suit, the party seeking to quiet title requests a quitclaim  
11 deed from the party holding an apparent adverse interest, and  
12 the adverse party refuses to deliver the requested quitclaim  
13 deed, the adverse party cannot avoid the costs of the action  
14 by disclaiming all right and title in the property. Instead,  
15 if the plaintiff succeeds, the court has the discretion to  
16 assess the ordinary costs of court and an attorney fee for the  
17 plaintiff's attorney. The attorney fee cannot exceed \$25 if  
18 the property in dispute is only a single tract not exceeding  
19 40 acres or is a single lot in a city. The attorney fee cannot  
20 exceed \$40 if the property in dispute is only a single tract  
21 greater than 40 acres but less than 80 acres. If the property  
22 is two or more tracts which are not contained in a single  
23 description, or a single tract covering more than 80 acres,  
24 or two or more city lots, the attorney fee is a reasonable  
25 fee, not to exceed, proportionally, the attorney fees with a  
26 specified dollar amount.

27     The bill amends current law to specify that the court may  
28 assess a reasonable attorney fee, regardless of the size of the  
29 property or the number of tracts or lots.

30     Under current law, when a party requests a quitclaim deed,  
31 the party must provide \$1.25 to the person with an apparent  
32 adverse interest to cover the expense of the execution and  
33 delivery of the deed. The bill provides that the party  
34 requesting the quitclaim deed provide \$50 to the person with  
35 an apparent adverse interest to cover the expense of the

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1 execution, acknowledgment, and delivery of the deed. The bill  
2 also requires the person making the request for the quitclaim  
3 deed to do so in writing, and to include, in addition to the  
4 \$50, a draft of the quitclaim deed, a copy of Code section  
5 649.5, and a self-addressed stamped envelope.